

Decision **PROPOSED DECISION OF COMMISSIONER PETERMAN**  
(Mailed 12/22/2015)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider  
Electric Procurement Policy Refinements  
pursuant to the Joint Reliability Plan.

Rulemaking 14-02-001  
(Filed February 5, 2014)

**DECISION CLOSING THE ORDER INSTITUTING RULEMAKING**

**Summary**

This proceeding is closed due to lack of pending formal issues to be decided within the timeframe established in the Scoping Memo. If another proceeding assumes Track 1 or Track 2 issues, work performed by an intervenor in this proceeding may be considered for intervenor compensation in such other proceeding. Energy Division shall gather and disseminate information regarding expected electric resource availability and the forward contracting of such resources, and make such information available to the public.

**1. Background**

Order Instituting Rulemaking (R.) 14-02-001 (OIR), issued February 13, 2014, originated from the Commission's commitment in adopting the Joint Reliability Plan (JRP) to consider certain issues, which the Commission took up under the three tracks in this proceeding:<sup>1</sup>

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<sup>1</sup> See Appendix A, The Joint Reliability Plan adopted on Nov. 14, 2013, available at <http://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=87779434>

1. Two- and/or three-year forward-looking Resource Adequacy (RA) procurement requirements;
2. Implementing a long-term joint reliability planning assessment with the California Independent System Operator (CAISO) and California Energy Commission (CEC); and
3. Determining rules and Commission policy positions with respect to the CAISO's development of a market-based backstop procurement mechanism to succeed its existing Capacity Procurement Mechanism (CPM), which expires in 2016.

The JRP resulted from extensive cooperation between Commission and CAISO staff following a long-term RA summit jointly hosted by the Commission and the CAISO in February 2013.<sup>2</sup> The overall objective for this proceeding was to ensure that California's electric reliability framework continues to adapt as needed to meet the changing requirements of the electric grid while facilitating the achievement of California's environmental policies at just and reasonable rates.

In the discussions leading to the development of the JRP's three initiatives, the Commission and CAISO staff agreed that establishing three-year forward capacity procurement obligations may provide a number of benefits if properly designed.<sup>3</sup> The Commission has previously considered but rejected proposals to require Load Serving Entities (LSEs) to demonstrate commitments with supply

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<sup>2</sup> California Public Utilities Commission and CAISO Long-Term Resource Adequacy Summit, February 26, 2013, briefing documents and presentations available at <http://www.caiso.com/Documents/BriefingBook-Long-TermResourceAdequacySummit.pdf>.

<sup>3</sup> See Joint Reliability Framework to Develop Multi-Year Resource Adequacy Obligations with a Market-Based ISO Backstop Capacity Procurement Mechanism at 8-9.

resources multiple years in advance of the RA delivery year.<sup>4</sup> The Commission found at the time that the proposals presented did not conform to its stated metrics for RA and determined that the RA program should continue as a year-ahead procurement framework. Although the Commission was not ready to implement such a feature at the time, it remained open to considering the issue in the future and directed the Energy Division (ED) to study and report on the potential of a forward procurement obligation.<sup>5</sup>

## **2. Procedural History-Tracks 1 and 3**

On October 2, 2014, the assigned Commissioner and Administrative Law Judges (ALJs) issued a ruling issuing the ED “Joint Reliability Plan – Track One Staff Report & Proposal” (Staff Proposal) dated October 2014. This Staff Proposal followed workshops on May 2, 2014 and May 13, 2014 to discuss risk of retirement of existing power plants, potential costs and benefits of multi-year requirements for ensuring electric system reliability, and feasibility and potential mechanics of a multi-year RA program. Workshop discussion informed options presented in the Staff Proposal.

On December 17, 2014, a joint prehearing conference between R.14-02-001 and R.14-10-010<sup>6</sup> (not consolidated) was held to consider parties’ comments in R.14-02-001 suggesting that certain multi-year RA issues be deferred or considered first in R.14-10-010.

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<sup>4</sup> Decision 10-06-018 at 68.

<sup>5</sup> *Id.*

<sup>6</sup> See R.14-10-010- “Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Local and Flexible Procurement Obligations for the 2016 and 2017 Compliance Years.”

On January 16, 2015, the assigned Commissioner and ALJs issued a ruling and suspended Track 1 of this proceeding pertaining to a two and three-year forward-looking RA procurement requirements “until further notice.” A durable flexible capacity year-ahead program to replace the interim (2015 through 2017) flexible capacity program is being developed in the RA proceeding (R.14-10-010) and is a prerequisite to implementation of a multi-year flexible RA program.

On November 4, 2015, the assigned Commissioner and ALJ issued a ruling closing Track 3 of this proceeding. Track 3 pertains to the determination of rules and Commission’s policy positions with respect to the CAISO’s development of a market-based backstop mechanism to succeed its existing administratively priced CPM, which expires March 2016. The market-based CPM, which CAISO filed at the Federal Energy Regulatory Commission (FERC) with widespread stakeholder support and was approved on October 1, 2015, presented an adequate replacement of the current interim, administratively priced CPM, and obviated the need for further Track 3 proceedings. Effective date of the new CPM is January 16, 2016, for the revised CPM tariff provisions so that CAISO can conduct competitive solicitations in advance of the March 2016 resource adequacy month and begin administering the CPM process on March 16, 2016.

### **3. Track 2 Status**

According to the Scoping Memo, Track 2 of this rulemaking was to establish a methodology and process for conducting joint long-term reliability assessments with the CAISO and in collaboration with CEC. To that end, Track 2 was to examine and seek stakeholder input on issues relevant to conducting a reliability planning assessment that looks out over a planning horizon of up to ten years into the future. The assessment was to seek to compare expected resource needs against two views of supply: the installed fleet (including

expected additions minus expected retirements) and the already procured fleet (resources that are owned by the LSEs or are under long-term contracts). In the process, the Commission would assess capacity that is currently under contract or will be under contract in the next ten years. In general, Track 2 was to inventory and model existing generation resources and their characteristics to determine if they meet flexibility requirements.

In the ruling closing Track 3, the assigned Commissioner and ALJ said that they plan to amend the existing Track 2 scope and schedule *or* provide other appropriate advice by a subsequent ruling. The rationale was that staffing shortages and complexity of a necessary stochastic modeling platform to evaluate utility data have resulted in at least a one-year delay of an “Energy Division First Assessment,” which was originally scheduled to be published during the first quarter of 2015.

Staff made progress on Track 2 with the development of a contract database, looking toward a formal economic risk of retirement analysis. With the aid of utility responses to October 2015 data requests, staff continues to revise the initial survey instrument and methodology. ED may hold a future workshop on how to improve the process, repeat the survey, and issue another report on results. Gathering and disseminating, such as on an annual basis, information regarding expected electric resource availability and the forward contracting of such resources, and making such information available to the public, will provide important and basic information about the state’s electric reliability resource mix. As the Scoping Memo schedule indicates, any final assessment (or ongoing assessment) may or may not require Commission approval. Currently, there is no known date when an initial assessment will be concluded. This

proceeding is scheduled to conclude no later than May 19, 2016, or 24 months after the publication of the Scoping Memo on May 20, 2014.

#### **4. Discussion**

As discussed above, Track 3 is closed and Track 1 is currently suspended until further notice pending the outcome of work in the RA proceeding. The RA proceeding has the permanent flexible capacity issue scoped, and that effort needs to be finalized before a two- or three-year RA requirement can be determined. This effort will not be completed by the scheduled end of the JRP. As most parties recommended in this proceeding, once the permanent flexible capacity determination is in place, the Commission can return to the issue of multi-year RA with this information in mind.

It is likely that Track 2 or implementation of production cost modeling to assess joint long-term reliability planning assessments, with the CAISO and in collaboration with the CEC, will continue to be delayed or deferred beyond May 19, 2016, when this proceeding is scheduled to conclude.

Further, due to ED staffing and budget constraints, it is likely that staff will not be able to provide a study allowing for comments and a Commission decision by May 2016. Given the uncertainty of when and/or if this work or other JRP work will be completed, there is no compelling reason to keep Track 1 or Track 2 open via an amended scoping memo or order extending deadline. Any remaining work pertaining to Track 1 or Track 2 should be assumed by other ongoing Commission Long-Term Procurement Planning (LTPP) or RA proceedings.

#### **5. Rulings on Motions**

This decision confirms all rulings in this proceeding. Any outstanding motions not yet ruled on are hereby deemed denied.

**6. Comments on Proposed Decision**

The proposed decision of Commissioner Peterman in this matter was mailed to parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on January 11, 2016 by Pacific Gas & Electric Company (PG&E) and The Utility Reform Network (TURN). No parties filed a reply.

Both PG&E and TURN support the reasoning of the decision and result or closure of the proceeding. This decision supports TURN's suggested clarification that, should Track 1 or 2 issues be taken up in another proceeding, the record of this proceeding on those issues will be incorporated into that other proceeding and that intervenors will have the opportunity to seek compensation for their work here in such other docket.<sup>7</sup> This decision also supports TURN's suggestion to formally highlight Energy Division's ongoing commitment to Track 2 work: Energy Division shall continue to gather and disseminate information regarding expected electric resource availability and the forward contracting of such resources, and make such information available to the public for the benefit of policy makers and market participants.<sup>8</sup>

**7. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Colette E. Kersten is the assigned Administrative Law Judge in this proceeding.

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<sup>7</sup> TURN Response to Proposed Decision at 1.

<sup>8</sup> *Id.*

**Findings of Fact**

1. Track 1 of this proceeding, pertaining to a two- and/or three-year forward-looking RA procurement requirements, was suspended on January 16, 2015, until further notice, pending the development of a durable flexible capacity year-ahead program in the RA proceeding.

2. The RA proceeding (currently R.14-10-010) has the permanent flexible capacity issue scoped, and that effort needs to be finalized before a two- or three-year RA requirement can be determined. This effort will not be completed by May 19, 2016, the date R.14-02-001 is set to expire per the Scoping Memo.

3. Track 2 of this proceeding, pertaining to implementation of a long-term joint reliability planning assessment with the CAISO and CEC, will also not be completed by the scheduled end of R.14-02-001.

4. Gathering and disseminating, such as on an annual basis, information regarding expected electric resource availability and the forward contracting of such resources, and making such information available to the public, will provide important and basic information about the state's electric reliability resource mix.

5. The market-based Capacity Procurement Mechanism (CPM), which CAISO filed at FERC and was approved on October 1, 2015, presented an adequate replacement of the current interim, administratively priced CPM, and obviated the need for further Track 3 proceedings.

6. Track 3, pertaining to the determination of rules and Commission's policy positions with respect to the CAISO's development of a market-based backstop mechanism to succeed its existing administratively priced CPM, was closed on November 4, 2015.



7. Given the uncertainty of when or if remaining staff work related to this proceeding will be completed, there is no compelling reason to keep this proceeding open.

8. With respect to Track 1 and Track 2, it is reasonable to incorporate the record from this proceeding in any other proceeding that takes up those issues.

**Conclusions of Law**

1. Track 1 of this proceeding should be closed.
2. Track 2 of this proceeding should be closed.
3. With respect to Track 1 and Track 2, the record from this proceeding should be incorporated in any other proceeding that takes up those issues.
4. This proceeding should be closed.

**O R D E R****IT IS ORDERED** that:

1. Track 1 of R.14-02-001 is closed.
2. Track 2 of R.14-02-001 is closed.
3. If another proceeding assumes Track 1 or Track 2 issues, work performed by an intervenor in Rulemaking 14-02-001 may be considered for intervenor compensation in such other proceeding.
4. Energy Division shall gather and disseminate information regarding expected electric resource availability and the forward contracting of such resources, and make such information available to the public.
5. All rulings in this proceeding are confirmed.
6. Any outstanding motions not yet ruled on in this proceeding are hereby deemed denied.
7. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, 2016, at San Francisco, California.